Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matter of	)	
	)	
Federal-State Joint Board	)	CC Docket No. 96-45
On Universal Service	)	
	)	

REPLY COMMENTS OF CENTENNIAL COMMUNICATIONS CORP.

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Centennial Communications Corp. ("Centennial") hereby replies to the Comments submitted in response to the *Referral Order* issued by the Federal Communications Commission ("Commission") and the *Public Notice* issued by Federal-State Joint Board on Universal Service ("Joint Board"), which sought comment on whether certain rules relating to high-cost universal service support for study areas served by competitive eligible telecommunications carriers ("ETCs") continued to fulfill their purpose, and whether they should be modified.[1] The Comments establish conclusively that competitive ETCs should continue to receive USF support. In addition, Centennial's experience in Puerto Rico shows that if any changes in the current funding mechanisms are to be made, exceptions to any funding decreases should be provided for study areas where telephone penetration falls well below national norms.

I. BACKGROUND: CENTENNIAL COMMUNICATIONS

Centennial is a publicly traded, independent, regional communications service provider. In the continental United States, Centennial (through various subsidiaries) offers digital cellular

[1] Federal-State Joint Board on Universal Service, Order, CC Docket No. 96-45, 17 FCC Rcd 22642 (2002) ("*Referral Order*"); Federal-State Joint Board on Universal Service Seeks Comment on Certain of the Commission's Rules Relating to High-Cost Universal Support and the ETC Designation Process, CC Docket No. 96-45, FCC 03J-1 (Jt. Bd., rel. Feb 7, 2003) ("*Public Notice*").

service to approximately 530,000 subscribers in thirty markets covering six states, mainly in small cities and rural areas in the Midwest and the South. Centennial has been operating in Puerto Rico for over six years, and it currently provides PCS to over 287,000 subscribers. It also is the only significant facilities-based competitive local exchange carrier ("CLEC") in Puerto Rico, with over 38,000 access lines in use.

Also in Puerto Rico, Centennial pioneered the use of wireless technology as a replacement for basic, landline telephone service with its "HomePhone" service. Within two years of the introduction of HomePhone service, Centennial had over 21,000 subscribers, who otherwise would have been unable to receive telephone service within a reasonable time, or at all, from the incumbent carrier, the Puerto Rico Telephone Company ("PRTC").[2] Centennial has held ETC designations in Puerto Rico, both as a facilities-based CLEC and as a CMRS provider, since 1997. In addition, Centennial has applications pending for competitive ETC status in four states — Indiana, Louisiana, Michigan and Mississippi. Centennial received approximately $12 million in USF support during 2002.

II. USF SUPPORT FOR COMPETITIVE ETCs SHOULD NOT BE REDUCED.

High-cost support to competitive ETCs is a tiny fraction of total high-cost support. For example, in the third quarter of 2002, competitive ETCs nationwide received less than 1/50th of the amount of high-cost support paid out to traditional, incumbent landline local exchange carriers ("ILECs"). The figure, however, is rising. In the first quarter of 2001, competitive

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[2] Interestingly, increased competition among CMRS providers in Puerto Rico over the past three years has lead to better pricing plans and better coverage, causing most HomePhone subscribers to simply convert to Centennial's "basic" wireless service. While Centennial will continue to offer HomePhone service, the increased usefulness of basic wireless service will likely make HomePhone service less critical to consumers as time passes. *See* p. 8, footnotes 21-22, *infra.*

ETCs received less than 1/200th of the amount paid to the ILECs.[3] During this same time, the total high-cost support payments grew by approximately 25.9%, from $638 million to $803 million.[4]

The growth in payments to competitive ETCs is easily — indeed, trivially — explainable by two factors: (1) more competitive ETCs are being certified; and (2) because competitive ETCs offer attractive services to consumers — as they must, if they are going to survive in the market at all — they are selling more lines and therefore receiving more funds.[5] However, the overwhelming majority of ***growth*** in payments — more than 72% of the growth, in absolute terms — is going to incumbents running legacy-technology networks. Mathematically, in dollar terms the increase in payments to incumbents is more than ***twelve times*** the increase in payments to competitive ETCs. In percentage terms, payments to legacy-technology incumbents grew by almost 20% between the first quarter of 2001 and the third quarter of 2002.

This growth — the skyrocketing payments to incumbents — cannot be explained quite so easily. It is not caused by an increase in the number of certified entities — the ILECs have been certified all along. And it is not caused by a growth in the number of customers served by ILECs — most states already have 90+% penetration.[6] So something about the operation of the current high-cost fund rules — something not related in any obvious way to factors that would logically

3 *Public Notice* at ¶10.

4 *Id.*

5 During the relevant period the number of competitive ETCs grew from 9 to 53. *See* Federal Universal Service Support Mechanisms Fund Size Projections and Contribution Base for the First Quarter of 2001, Appendix HC1 and Fund Size Projections and Contribution Base for the Third Quarter of 2002, Appendix HC1 (Universal Service Administrative Company). Information on the precise number of ETC lines served is not available, but it is clear that the number has risen over time.

6 A notable exception, from Centennial's perspective, is Puerto Rico. *See infra.*

bear on achieving universal service goals — is driving a massive increase in payments to incumbent operators of legacy-technology networks.

Even so, the Joint Board asks whether it should modify its rules for high-cost support in study areas where competitive ETCs operate.[7] In response to this question, the legacy-network incumbents focus on the relatively modest increases in payments to competitive ETCs as somehow relevant to the issue, when, as just shown, the overwhelming majority of the funding increases are attributable entirely to the legacy-network incumbents themselves.[8]

That said, competitive ETCs should definitely be included within the high-cost support system. The key insight of the Telecommunications Act of 1996 is that all consumers benefit by opening all telecommunications markets (including rural and high-cost areas) to competition. If new entrants with non-traditional technologies (such as wireless) are effectively foreclosed from entering certain markets because they would have to compete with subsidized providers using (often) largely depreciated legacy-technology networks, then consumers in those markets will be deprived of the benefits of competition. Here, while it is always possible to modify and improve the operation of any complex regulatory program it would be arbitrary and irrational, given the tiny fraction of fund payments attributable to competitive ETCs, to conclude that any reasonable "solution" to perceived problems with the current USF lies in limiting or constraining the payment of funds to such entities.

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7 *Public Notice* at ¶ 8.

8 *See* Sprint's Joint Board Comments at pp. 5-6; Dobson Comments at p.11; Comments of CTIA in CC Docket 96-45, Regarding Petition of Valor Communications of Texas, L.P. for Waiver of Section 54.304 of the Commission's Rules, at pp. 3-4. *Cf.* Matthew 7:3 ("And why beholdest thou the mote that is in thy brother's eye, but considerest not the beam that is in thine own eye?").

The *Public Notice* inquires about how high-cost support rule changes would impact "the Act's [joint] goals of maintaining universal service and fostering competition."[9] The short answer is that restricting the availability of funds to competitive ETCs but not incumbents would not only unreasonably interfere with the development of competition; it would also degrade the achievement of universal service. This is because competition will ***promote*** the achievement and maintenance of universal service.[10] The availability of competitive alternatives such as wireless — that are not identical to, and are in some significant ways superior to, service offered by incumbents with legacy technologies — will attract customers onto the network who would not otherwise subscribe. In addition, the existence of competitive alternatives will force legacy-technology incumbents to examine their operations, look for ways to cut costs, and look for ways to market additional services. This, too, will inevitably encourage new subscribers onto the network and existing subscribers to remain. In other words, the supposed conflict between competition and universal service is illusory — competition will help achieve universal service.[11]

For these reasons, Centennial submits that the premise of this inquiry should not be ***whether*** high-cost support should continue to be provided to competitive ETCs. It should. The focus, instead, should be how to best use the forces of competition to help to achieve and maintain universal service.[12]

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9 *Public Notice* at ¶ 8.

10 That has certainly been Centennial's experience in Puerto Rico. *See infra.*

11 The existing universal service funding mechanism involves making payments to suppliers, not directly to consumers. Necessarily, therefore, in a competitive environment, universal service support will be provided not only to established entities operating legacy networks, but also to new entrants in very different financial circumstances.

12 Without a universal service system that provides subsidies to competitors and incumbents alike, competitors will find it difficult, if not impossible, to continue to offer service in high-cost areas. The result would be that actual and potential telephone service subscribers in those areas would be relegated to

In this regard, Centennial agrees with the arguments submitted by Dobson Communications Corporation ("Dobson"), United States Cellular Corporation ("USCC")[13], Western Wireless Corporation ("WWC")[14] and others to the effect that "advancing entry of competitive ETCs should be central to universal service policy making."[15] As they point out, competitive carriers are highly unlikely to enter or expand their networks in markets where only the incumbent receives USF support.[16] Although the purpose behind universal service support is without question a worthy one, in economic terms the effect of providing subsidies to an existing monopolist, but not to competitors, is indistinguishable from what the antitrust laws condemn as predatory pricing.[17] Payment schemes that favor incumbents over new entrants will contribute to the continued monopolization of the markets where those payment schemes operate. This cannot be viewed as consistent with the purposes of the 1996 Act.

In fact, eliminating or limiting high-cost USF support for competitive ETCs will result in a "double-whammy"; first, it will have no appreciable impact in addressing USF growth —

... (note continued)
purchasing service from a monopoly provider. Such a result might be in the interest of such a provider, but it would not be in the interest either of the affected consumers or in the overall public interest.

13 USCC Comments at pp. 10-14.

14 WWC Comments at pp. 5-6.

15 Dobson Comments at p. 2.

16 Dobson Comments at p. 5.

17 Modern economic thought counsels that predatory pricing is unlikely to occur in unregulated or competitive markets. *See, e.g., Cargill v. Monfort of Colorado, Inc.,* 479 U.S. 104, 120 n.17 (1986) (*citing, e.g.,* R. Bork, The Antitrust Paradox 144-159 (1978); Posner, The Chicago School of Antitrust Analysis, 127 U. Pa. L. Rev. 925, 939-940 (1979)); *Matsushita Elec. Industries v. Zenith Radio Corp.,* 475 U.S. 574, 589 (1986) ("predatory pricing schemes are rarely tried, and even more rarely successful"). But when the predatory pricing arrangement is funded (for other reasons, of course) by a government program, and not out of the monopolist's own money, the reasons for concluding it will be "rarely successful" do not apply. With predatory pricing funded by an outside source, it can be used to sustain a monopoly indefinitely. As a result, unlike a "normal" predatory pricing scheme in an unregulated, competitive market, it is quite possible for a predatory pricing arrangement in telecom markets to drive unsubsidized competitors out of the business by selling services at a "below cost" price.

which, as noted above, is overwhelmingly being driven by factors "internal" to the incumbents and their legacy networks. Second, lack of support to competitive ETCs will perpetuate the monopolistic provision of telecommunications services by ILECs in areas where universal service is most needed, depriving markets and consumers who could most benefit from them of the salutary effects of competition.

Centennial therefore suggests that instead of narrowly focusing on how to limit high-cost support growth, the Commission and Joint Board should reconsider some of the fundamental assumptions of the *Public Notice*. Specifically, the *Public Notice* implicitly assumes that ILECs are entitled to universal service support, while it explicitly questions whether competitive ETCs, including wireless carriers, should continue to receive USF support. Given the fact that wireless carriers often are better positioned to provide telecommunications services to rural and insular areas, this "ILEC-centric"[18] premise should be expressly rejected.

Centennial's experience in Puerto Rico is particularly instructive here. Through both its wired and wireless networks in Puerto Rico, Centennial covers urban, rural and insular areas. In an effort to provide service to the entire island, Centennial has learned that providing service to hard-to-reach areas through its wireless facilities often is a better solution than through its wired plant.[19] With its wireless network, Centennial can more rapidly and efficiently expand its service areas with less infrastructure deployed, which obviously is more cost-effective. In addition, like

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... (note continued)
That is, it may be that the would-be competitor cannot operate profitably if it sells its services at a level designed to meet the subsidized price, but without itself receiving a subsidy.

[18] USCC Comments at p. 17.

[19] However, Centennial also notes that its wired phone service offering provides significantly larger local calling areas than does the incumbent (PRTC), which considers continuing to receive outlandishly high intrastate access charges (in connection with toll calls between artificially tiny calling areas) to be more important than giving its customers an affordable wide-area calling service. Centennial believes that its wired service offering is, on balance, more affordable than PRTC's.

most wireless carriers, Centennial offers its customers rate plans featuring unlimited local and long distance calling for a fixed price. Centennial believes that the customer benefits when there is no cost difference between local and toll calls, and therefore that it is offering a more valuable, cost-efficient service to its customers.[20] Apparently, Centennial's wireless customers in Puerto Rico agree that they are receiving a valuable service. During the month of April 2003, Centennial wireless subscribers averaged over 1,100 minutes of use.[21] This figure is substantially higher than the national average of 385-422 MOU that was estimated for 2001,[22] and indicates that more and more Centennial customers in Puerto Rico are switching to wireless for their primary phone service.

Consequently, if achieving and maintaining universal service is the ultimate goal — which it clearly should be — and USF support is to be limited to one type of carrier, the funding presumption should be in favor of the carrier who provides the most efficient and cost-effective

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20 This belief is supported by the explosive growth of CMRS service nationwide after the introduction of wireless flat-rate plans in the mid-1990s. And it is becoming apparent that many other telecommunications service providers are beginning to follow the wireless model of flat-rate plans. *See* Nicholas Thompson, *Phone Companies See Their Future in Flat-Rate Plans,* New York Times (May 23, 2003); *available at* http://www.nytimes.com/2003/05/23/business/23PHON.

21 Specifically, Centennial's postpaid customers averaged 1,184 minutes of use ("MOU"), and its prepaid customers averaged 125 MOU.

22 *See* In the Matter of Implementation of Section 6002(b) of the Omnibus Budget Reconciliation Act of 1993, Annual Report and Analysis of Competitive Market Conditions with Respect to Commercial Mobile Services, *Seventh Report*, 17 FCC Rcd 12985, at pp. 21-22 (2002). Centennial acknowledges that it is comparing MOU data from 2001 with April 2003. However, CTIA has estimated that average MOUs increased 36% during 2002. *See* CTIA Press Release, Wireless Industry Defying Economic Trends With Growth and Investment, released March 17, 2003). Assuming a high national average of 422 MOUs for 2001, a 36% increase would equate to a national average of 574 MOUs for 2002, almost 50% less than Centennial's average MOU in Puerto Rico.

method of telecommunications service delivery. This will not necessarily be — indeed, often will not be — the incumbent.[23]

III. ANY MODIFICATIONS TO THE HIGH-COST RULES MUST ACCOMMODATE UNIQUE CIRCUMSTANCES

As the Joint Board is aware, Centennial was one of the first competitive ETCs to receive USF support in the United States (beginning in 1999). Shortly after Centennial began providing competitive telecommunications service in Puerto Rico, the penetration rate for the island was 74.2% (versus a national average of 94.1%).[24] The latest telephone subscribership penetration rate for Puerto Rico is 76% (versus a national average of 95.3% as of November 2002).[25] While the penetration level has increased in Puerto Rico, what is noteworthy is that the penetration level still is almost 20% below the national average.[26] Clearly, for national universal service goals to be achieved, penetration levels in Puerto Rico must increase significantly. Centennial submits that Puerto Rico should have a penetration level comparable to the rest of the country — above 90%. This is an ambitious goal, and one that will be impossible to accomplish if universal

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23 Centennial also wholeheartedly supports Dobson's observation that the "Act does not intend the USF to be a welfare system for the rural ILECs; rather, it intends that ***consumers*** in rural [and insular] areas are not disadvantaged relative to those in urban areas." Dobson Comments at p. 3.

24 See Comments of Puerto Rico Telephone Company, Inc., Federal State Joint Board on Universal Service Promoting Deployment and Subscribership in Unserved and Underserved Areas, Including Tribal and Insular Areas, CC Docket No. 96-45, at 3 (filed Dec. 17, 1999); Industry Analysis Division, Common Carrier Bureau, Federal Communications Commission, Telephone Subscribership in the United States, (rel. January 2000); available at http://www.fcc.gov/wcb/iatd/stats.html.

25 U.S. Census Bureau, Census 2000, Summary File 3 (SF3); *available at* http://factfinder.census.gov/servlet/DatasetMainPageServlet?_ds_name=DEC_2000_SF3_U&_program=DEC&_lang=en

26 It is also noteworthy that Puerto Rico's penetration rate is approximately 14% lower than that of New Mexico, which has the lowest penetration rate of the 50 states. *See* Industry Analysis and Technology Division, Wireline Competition Bureau, Federal Communications Commission, *Telephone Subscribership in the United States*, (rel. April 2003); *available at* http://www.fcc.gov/wcb/iatd/stats.html.

service support, including high-cost support, continues to be eroded for Puerto Rico, and for competitive ETCs, such as Centennial.

As explained above, since launching competitive telecommunications service in Puerto Rico in November 1996, Centennial has over 38,000 wireline access lines and over 287,000 wireless subscribers. Further, Centennial's wireless customer MOUs far exceed the national average, proving that wireless increasingly is a substitute for wireline service in Puerto Rico. And, the majority of Centennial's HomePhone customers (and, now, customers who have substituted "normal" wireless services for HomePhone) subscribe because they are located in areas where PRTC (the incumbent) either does not provide service, or will only do so after a lengthy delay. Centennial's thousands of customers show that its introduction of service in Puerto Rico has made a difference in the lives of Puerto Ricans, and has contributed to the increase in the island's penetration rate.

There are additional factors that will continue to make the goal of increased telephone subscribership penetration in Puerto Rico challenging. For example, the per capita annual income level in Puerto Rico is approximately $8,000, with 44.6% of families living below the poverty level, and 48.2% of individuals living below the poverty level.[27] This compares quite unfavorably to the nationwide per capita annual income of approximately $21,500 (9.2% of families/12.4% of individuals below the poverty), and even with the levels of the least prosperous of the 50 states (Mississippi) which has a per capita annual income of approximately $15,800, with 16% of families and 19.9% of individuals below the poverty level.[28] In addition,

[27] U.S. Census Bureau, Census 2000, Table DP-3, Profile of Selected Economic Characteristics: 2000 (reporting 1999 data); *available at http://censtats.census.gov/pub/Profiles.shtml*

[28] *Id.*

Puerto Ricans face an exceptionally high cost of living. The Consumer Price Index ("CPI") in Puerto Rico is more than 15% higher than the national average.[29]

Even though most people probably view basic network connectivity as an essential service, it is axiomatic that a combination of high costs and low income will impede telephone subscribership. Due to the unfavorable economic factors present in Puerto Rico, it will be especially difficult to make appreciable progress in increasing Puerto Rico's telephone penetration level if competitive ETCs in Puerto Rico are subject to reductions in USF support, including high-cost support.

The USF support that Centennial receives in Puerto Rico is critical to its ability to provide reasonably priced, competitive telecommunications services. For this reason, while Centennial opposes any additional general reductions in USF support, and for the reasons discussed above believes it would be arbitrary and irrational to target any such limitations or reductions to competitive ETCs, ***if*** the high-cost support rules are modified, the Joint Board and Commission should expressly create exceptions for circumstances such as those that exist in Puerto Rico.

Specifically, notwithstanding any other rule changes, Centennial suggests there should be no reductions to USF support received, including high-cost support, for study areas that meet the following test: 1) a penetration rate that is in the lowest decile of penetration rates and either 2) per capita annual income that is in the lowest decile; 3) percentage of persons with income below the poverty level in the highest decile; and/or 4) a CPI that is in the highest decile. The purpose of this exception would be to identify those states/study areas where the goal of universal service

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[29] Economist Intelligence Unit, Puerto Rico: Quarterly Economic Indicators (May 12, 2003); United State Department of Labor, Bureau of Labor Statistics, Consumer Price Index: April 2003.

is farthest from being fulfilled and — to the extent that there appears to be an economic component to the problem (as identified by low per capita income and/or a high CPI) — keeping the same amount of economic support for universal service available to that area. Indeed, unless such an exception is adopted, Centennial believes that the Act's goal of universal service will be increasingly difficult to achieve in Puerto Rico (and any other study areas suffering from the types of problems that exist there).

IV. SUPPORT FOR ADDITIONAL LINES/ETC DESIGNATION PROCESS

Centennial concurs with those commenters who argue that USF support should continue for additional lines.[30] One can imagine a very different USF mechanism than exists today in which this issue would not arise. For example, one could imagine a system in which customers, not providers, receive payments, so that in high-cost study areas customers could use government-issued "phone vouchers" to pay part of their bills. Then it wouldn't matter how particular customers chose to use the vouchers. But in the absence of such a system, the result of trying to limit support to "primary lines" would be an administrative nightmare, as well as an inevitable bias towards the incumbent's services.[31]

As to the process of designating ETCs, Centennial submits that the key problem is not a lack of standardization as between different states. The key problem today is the uncertainty surrounding the certification of competitive ETCs being fomented by incumbent LECs seeking to protect themselves from competition. Unfortunately, the pendancy of this very proceeding

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30 See, e.g., Comments of the Cellular Telecommunications & Internet Association at pp. 8-9; Dobson Comments at pp. 7-8; Comments of Rural Cellular Association and The Alliance of Rural CMRS Carriers at pp. 27-28; Comments of Smith Bagley, Inc. at pp. 16-17.

31 Centennial is not suggesting the adoption of this approach, which would have numerous problems of its own. But without an approach of this type, efforts to try to designate one "primary line" entitled to

contributes to that uncertainty. Centennial, therefore, urges the Commission to promptly declare that competitive ETCs may and should be certified, including — perhaps especially — in rural, high-cost areas. If any significant problems with the certification process remain, they can be dealt with in the future.

V. CONCLUSION

Centennial believes that the Comments submitted in this proceeding establish conclusively that USF support for competitive ETCs should not be reduced. Moreover, Centennial urges the Commission and the Joint Board to reconsider the *Public Notice's* implicit assumption that ILECs are entitled to universal service support, while questioning whether competitive ETCs are entitled to continue receiving support. Indeed, if support is to be limited to one type of carrier, the funding presumption should be in favor of the carrier who provides the most efficient and cost-effective method of telecommunications service delivery. Finally, Centennial's experience in Puerto Rico shows that *if* any changes in the current funding mechanisms are to be made, exceptions to any funding decreases should be provided for study areas where telephone subscribership penetration falls well below national norms.

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... (note continued)
receive subsidized funding will inevitably be administratively quite challenging — and will also, inevitably, favor the payment of funds to the incumbent.